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Sixty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1854th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 19 July 2000, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1854/Add.1.

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GE.00-43393 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Kuwait (continued) (CCPR/C/120/Add.1)

1. At the invitation of the Chairperson, the members of the delegation of Kuwait resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation to continue replying to questions put orally by members of the Committee.

3. Mr. AL-REESH (Kuwait), responding to questions raised concerning the situation of illegal residents or Bedoons, said that Bedoons in fact enjoyed a number of privileges. Over the period 1998-1999 the Government had paid out a total of US$ 50 million to reimburse the school fees of 20,860 Bedoon children whose parents were in government employment. Passports had been issued to 22,127 persons in that category, and to 34,466 of their dependants. In the course of the current year, passports had been issued to 2,500 such persons to enable them to travel abroad on pilgrimage. Medical treatment was also available to Bedoons in all clinics and hospitals. Indeed, the situation of Bedoons was better than that of many legal residents in terms of financial security.

4. In 1999, 759 marriage certificates had been issued to illegal residents, and in the period up to 17 July 2000 a total of 1,794 birth certificates had been issued. Hitherto, 92,983 identity cards had been issued to registered Bedoons over five years of age. Whereas the number of illegal residents in the country in 1990 had been 219,966, they now numbered only about 102,000, partly because many had applied for naturalization and partly because during the Iraqi invasion many had returned to their countries of origin and had come back to Kuwait with legitimate passports issued by those countries.

5. Mr. RAZZOOQI (Kuwait), in reply to a question on the status of disabled persons, said that Kuwait had a very advanced system for the care of persons in that category. A department of the Ministry of Social Affairs was responsible for providing for persons with what were termed "special needs". Under a new law, public buildings would be required to provide specially equipped toilet and parking facilities for the disabled. In the area of employment, training schemes for the disabled were subsidized by the Government.

6. On the question of the ill-treatment of domestic servants, he said Kuwait was doing all it could to put an end to such practices by raising public awareness of the need to respect the human rights of employees. The Ministry of the Interior was developing forms of contract which would clearly define the relationship between employer and employee, and operated a system of inspections whereby any irregularities could be reported to the competent authorities. Domestic servants returning to Kuwait after the invasion by Iraq had been granted the same

employment and privileges as they had previously enjoyed. Although there was no law prohibiting persons in that category from establishing or joining a trade union, no one had so far made an application to do so.

7. In response to a further question, he said there was a law regulating societies and associations in Kuwait whose activities extended beyond the country's borders. There were 55 such societies and associations in Kuwait, including NGOs.

8. The situation of young offenders was regulated by the Law on Juveniles. Institutions housing juveniles who had been convicted of an offence were run by the Ministry of Social Affairs, and provided special programmes designed to facilitate their rehabilitation and social reintegration. Psychological counselling, financial assistance and training schemes were also provided. In all cases, a first offence would be subject only to a suspended sentence.

9. In reply to a question raised by Ms. Evatt, he said that in June 2000 Kuwait had in fact submitted a report to the International Labour Conference giving details of amendments to the Labour Code which would bring Kuwaiti legislation into line with the ILO Convention cited. On the question of the prohibition of political associations, he agreed that such associations did have an important role to play in civil society: the law in question, which was a long-established one, was currently being reviewed. A total of 52 applications for authorization to set up societies or associations had not yet been dealt with by the Council of Ministers, either for technical reasons or because of financial considerations. Since the State was required to provide premises, pay rates and in some cases also provide staff, it could not support an unlimited number of such associations. Lastly, he said it was expected that the human rights committee referred to by Ms. Evatt would shortly be given official status.

10. Mr. AL-OMAR (Kuwait), in reply to a question on the Personal Status Code, said the Code stipulated that a mother could not travel abroad with a child without the approval of his or her legal guardian. Travel abroad for leisure purposes did not require authorization, but authorization was needed for travel for the purpose of establishing residence abroad. Under the Code, marriage between a Muslim and a non-Muslim was lawful.

11. In regard to offences against the judiciary, a person who insulted a judge or called in question his professional or personal integrity would be liable to a fine or imprisonment. However, simply to question in good faith the way the law was being applied by a judge would not constitute an offence. With regard to legislation relating to women and children, under a recent ministerial decree widows supporting children born in Kuwait, and widows or divorced women supporting non-Kuwaiti children, were eligible for benefits. Orphans and children placed in foster care also received State support.

12. The Press Code provided ample guarantees to protect the rights of editors and journalists. However, in cases of libel, journalists would be liable to prosecution unless they could prove that they had acted in good faith on the basis of information from reliable sources. Complaints of libel must be made within three months of the date of issue of the publication concerned,

licences of newspapers or magazines could not be revoked without a court order, and closures could not exceed one year. A journalist or editor could not be taken to court without a prior investigation of the complaint by the Public Prosecutor's Office.

13. Mr. AL-SALEH (Kuwait), in response to a comment by a member of the Committee that the figure of 2,000 naturalized Bedoons seemed comparatively small in relation to the size of the total Bedoon population, pointed out that that figure would be nearer 5,000 when the wives and families of the persons concerned were taken into account.

14. Mr. RAZZOOQI (Kuwait), replying to the question on missing persons asked by Mr. Solari Yrigoyen, said that following the invasion in 1990 the Iraqis had taken prisoner over 10,000 Kuwaiti citizens, so that the issue of missing persons touched almost every family in the country. During the occupation there had in fact been no effective government and a state of anarchy had reigned; Iraq had refused to let the Red Cross into the country, so that it had been very difficult to establish the exact number of persons involved. However, Kuwait was prepared to investigate all cases of missing persons. It had nothing to hide, and followed a policy of complete transparency, since it regarded the issue as humanitarian rather than political and was aware of its obligations under the Geneva Convention. The Working Group on Enforced and Involuntary Disappearances had on its files only one Kuwait-related case which still required investigation.

15. In reply to a further question, he said that the maximum period for which a person could be held in custody was four days, and prosecutions could only be initiated in accordance with the proper legal procedure. He was not able to state with certainty how far the Cairo Declaration adopted by the Islamic Conference was in accord with the Covenant. Lastly, he could confirm that religious observance was permitted in prison irrespective of the faith of the individual concerned.

16. The CHAIRPERSON said that while the Committee was aware of the difficulties caused by the Iraqi invasion, its duty was to ascertain to what extent Kuwait was currently complying with its international obligations under the Covenant. There was consensus in the Committee that, unfortunately, little information had been supplied about what was really happening in the country. The delegation's replies had merely tended to reiterate the data supplied in the report and had consisted of an enumeration of legislative and constitutional provisions. Consequently they had not provided a proper basis for discussing the true situation with regard to civil and political rights in Kuwait. Another shortcoming had been the inconsistencies (perhaps due to translation or interpretation) between the written and oral information.

17. Summing up the Committee's main criticisms, she said that the status of the Covenant within the Kuwaiti legal order was unclear. It was plainly part of the legal system, but what was its position in the hierarchy of laws? No reply had been given to questions regarding a possible conflict between the Covenant and the Constitution, the shariah and ordinary law. The Committee had been unable to ascertain how the Covenant could be applied by the courts if it contradicted the Constitution, municipal law or religious law. If those enactments were not

consistent with the Covenant, why did they still take precedence? What was the explanation for gaps in legislation? It was strange that while there was no prohibition of political parties, there was no law on them, so none existed.

18. The Committee members had been greatly concerned about the interpretative declarations and the reservation. Many members considered that the interpretative declaration on article 2, paragraph 1, was incompatible with the Covenant, because it not only diluted the strength of the State party's obligations but it deprived the Covenant of its very essence and made ratification futile.

19. The incompatibility of those interpretative declarations and the reservation was especially apparent in the light of the Committee's General Comment No. 24. The delegation had even conceded that the interpretative declaration meant that it was impossible for the State to honour its obligations. The Committee had been unable to discover which organ was responsible for supervising the fulfilment of commitments. The delegation's statement that it would have to return to Kuwait to examine which articles of the Covenant were affected by the shariah clearly demonstrated the existence of a major difficulty. Having quoted paragraph 19 of the Committee's General Comment No. 24, she pointed out that if the interpretative declarations in question were classed as reservations, it would be totally impossible to know which provisions of the Covenant were binding on Kuwait. The delegation had asserted that the purpose of the interpretative declaration was to protect the primacy of the shariah. Yet such primacy did not appear to be the sole objective; for example, Parliament's refusal to adopt the Amir's bill introducing political rights for women caused her to think that the reservation might not be motivated by religious reasons alone. It should be remembered that the principle of non-discrimination was more than a human right, it was a basic principle of jus cogens. The interpretative declaration was therefore manifestly inconsistent with the Covenant.

20. One of the most important points, which had been intensively discussed by the Committee, had been the situation of women. She regretted the delegation's inability to make a clear commitment to change, because she believed that Kuwait was in breach of its international obligations. The delegation should pass on the message to the Government of Kuwait that obligations under the Covenant were obligations on the State.

21. The Committee had also been disquieted by the answers given about the state of emergency and the right to life. And the information provided with regard to article 9 had revealed that the period of pre-trial detention was too long to be in conformity with that provision. Moreover, it was unclear which authority authorized detention or supervised the legality of detention or on what bases a judge could order that a person be held in custody.

22. The Committee had many doubts about Kuwait's compliance with articles 14 and 18. Similarly, with regard to article 19, the report had disclosed restrictions on freedom of expression which were inconsistent with the Covenant, since it appeared that journalists charged with libel must prove that they had acted in good faith and were obliged to reveal their sources.

The reply to the question regarding article 21 had not elucidated legal requirements or legal remedies, and insufficient information had been provided in relation to articles 22-25. Lastly, she was mystified how someone who worked for the Government and had been issued with a passport could still be termed an illegal resident. She urged the delegation to convey the Committee's concerns to the Government.

23. Mr. RAZZOOQI (Kuwait) said that the Committee's concluding remarks would certainly be passed on to all levels of government in his country and assured the Committee that Kuwait would make every endeavour to cooperate in promoting civil and political rights.

The public part of the meeting rose at 4.05 p.m.